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| EXAMINER |
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SHRESTHA, BIJENDRA K

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12/22/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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|------------------------------|---|-------------------------------------|--|
| Office Action Summary | Application No. 10/767,699 | Applicant(s) DALEY ET AL. | |
| | Examiner BIJENDRA K. SHRESTHA | Art Unit 3691 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10 and 43-74 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10 and 43-74 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Non-Final Office action is in response to Request for Continued Examination (RCE) filed on June 28, 2010. Claims 10, 43-74 are pending.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/28/2010 has been entered.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Newly added Claims 53-63 and 64-74 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 53-63 and 64-74 represent improper dependent claims reciting both computer readable medium and system to carry out a method of claim as stated. Applicant fails to point out distinctly whether it is system or method claim and which

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steps of claim or whichever dependent claim it is dependent on is carrying out the method as described. Examiner interpreted claims 53-63 and 64-74 as a system claim for purposes of applying prior art in this application.

The newly added claims create confusion since the claims are directed to a system claim or a computer readable claim yet refer back to and incorporate steps of a method claim. Is the claim dependent on the method claim? The Examiner cannot determine whether the newly added claims are directed to a system, a computer readable medium, or should they be method claims (since they refer back to a method claim). In addition, it is unclear which particular steps of the method claim are incorporated into newly added claims 53-63 and 64-74. One of the steps of the method? Two of the steps? Some of the steps? Most of the steps? All of the steps? With this type of claim construct as advanced by applicant, it is unclear what the scope of each of claims 53-63 and 64-74 encompass.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 10 and 43-74 are rejected under 35 U.S.C. 102(e) as being anticipated by Korhammer et al., U.S. Pub No. 2004/0236662 (reference B in attached IDS submitted on 11/18/2005).

5. As per claim 10, Korhammer et al. teach a method comprising:

transmitting, via a processor, a trading order that comprises a request to buy or sell a quantity of a trading product (see Fig. 1, paragraph [0049] ; where user trading order is transmitted by CCS 101 when user filled Lava order Launcher screen in Fig. 2);

transmitting, via the processor, a disclosure amount for the trading order, in which the disclosure amount is a portion of the quantity of the trading product that is to be disclosed (see Fig. 2; DELL (1080), Total Quantity (1010), Maximum disclosure Quantity or Show (1040); paragraph [0052]);

receiving, from a remote device, an indication that a plurality of market centers that match the trading order (see Fig. 1; paragraph [0046]; where Consolidated Computer System (CCS) 100 collects orders from ECN150, ECN251, ECN353 and ECN454 and NASDAQ52) and distributes to the trader),

in which each market center provides, at a price, the disclosure amount of the requested trading product (see page 7, paragraph [0056], Table 1),

in which each market centers comprises a disclosure policy that indicates at least one rule for disclosing the trading order, and adopted by each identified market center (see Fig. 1; paragraph [0047]; where customized order book on the trader terminal organized by security and price disclosing each market center and its information);

in which the processor and the remote device are in communication over a network (see Fig. 1; paragraph [0039]; where CCS and ECNs are in communication over network)

receiving, from the remote device, an indication that the trading order has been routed to a first market center according to the a first disclosure policy (see Fig. 5, paragraph [0070]; where network processes communicate with one another by intention to Trade (ITT) message, order message and execution message), in which the price of the first market center, when compared with the prices of the other market centers, provides a best price for the trading order (see paragraph [0056-0057]).

6. As per claim 43, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method in which the best price comprises

a bid price that is higher than other bid prices provided by the plurality of other market centers (see page 7, paragraph [0056], Table 1; where bid price \$24.05 of MLCO, GSDO and ISLD is higher than that of ARCA and FBCO).

7. As per claim 44, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the best price comprises

an offer price that is lower than other offer prices provided by the plurality of other market centers (see paragraph [0058]; where Lava Launcher “sweep order” exhaust current inside price before moving to a worse level, lower price for sell order).

8. As per claim 45, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which

the trading product comprises at least one of: a stock; a bond; and a futures contract (see paragraph [0034]).

9. As per claim 46, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the at least one rule of the first disclosure policy comprises:

disclosing to other market participants the quantity of the desired trading product and the disclosure amount (see Fig. 2; DELL (1080), Total Quantity (1010), Maximum disclosure Quantity or Show (1040); paragraph [0052]).

10. As per claim 47, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which

the first disclosure is a proprietary reserve policy (see Fig. 2, paragraph [0059]).

11. As per claim 48, Korhammer et al. teach claim 47 as described above.

Korhammer et al. further teach the method, in which the act of transmitting the trading order to the first market center further comprises:

transmitting, to the first market center, a reserve order that comprises the quantity of the desired trading product, in which the reserve order is not disclosed publicly; transmitting a first disclosure order to the first market center, in which a quantity of the first disclosure order equals the disclosure amount (see Fig. 2, Show Value = 1000, Reserve Quantity; where reserve quantity is not disclosed and CCS sells 1000 shares of Dell at 20 and discretion of 0.10);

receiving an indication that the first disclosure order has been executed;
transmitting, in response to the indication that the first disclosure order has been

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executed, a second disclosure order to the first market center, in which the second disclosure order equals the lesser of: the disclosure amount, or a remaining amount, in which the remaining amount comprises the quantity of the reserve order minus the quantity of the first disclosure order (see Fig. 2, paragraph [0059]; where CCS will further sell up to 9000 reserve quantity within the discretion amount).

12. As per claim 49, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the at least one rule of the first disclosure policy comprises:

transmitting a day order to the first market center, in which the day order comprises the disclosure quantity and the day order that remains on an order book of the first market center for the duration of a trading day until one of the following occurs: the trading day ends, the day order is canceled, or the day order is filled (see Fig. 2, Sweep Order; paragraph [0055]; where sweep order continues to work until filled, cancelled or until expires based on user specified duration).

13. As per claim 50, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the at least one rule of the first disclosure policy comprises:

disclosing only the disclosure amount to other market participants (see Fig. 2; DELL (1080), Total Quantity (1010), Maximum disclosure Quantity or Show (1040); paragraph [0052]).

14. As per claim 51, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which

the first disclosure policy is an immediate-or-cancel (IOC) policy (see paragraph [0112]).

15. As per claim 52, Korhammer et al. teach claim 10 as described above.

Korhammer et al. further teach the method, in which the act of routing the trading order to the first market center further comprises:

transmitting an IOC order that comprises the quantity of the desired trading product; and receiving an indication from the first market center that a portion of the IOC order has been executed; and transmitting, in response to receiving the indication that the portion of the IOC order has been executed, a request to cancel a remainder of the IOC order with the first market center, in which the remainder comprises the quantity of the desired trading product minus the executed portion of the IOC order (see paragraph [0112]; where entire quantity of the order sent as IOC to first market center providing the best price, and IOC order sent to subsequent market center for entire remaining unexecuted quantity).

16. As per claim 53, Korhammer et al. teach an apparatus comprising:

a processor; and a memory, in which the memory stores instructions which, when executed by the processor, direct the processor to perform the method of claim 10 (see Fig. 1; paragraph [0046] and [0049]; where Consolidated Computer System (CCS) processes and routes order).

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17. As per claims 54-63, Korhammer et al. teach claim 53 as described above.

Claims 54-63 are rejected under same rational as claims 43-52 respectively as described above.

18. As per claim 64, Korhammer et al. teach an article of manufacture comprising: a storage medium, in which the storage medium stores instructions which, when executed by a processor, direct the processor to perform the method of claim 10 (see Fig. 3, Messaging System 100'; paragraphs [0015], [0023], [0066] and [0049]; where plurality of users send messages/instructions to CCS (server) to execute an order which is stored in messaging system of CCS (100')).

19. As per claims 65-74, Korhammer et al. teach claim 64 as described above.

Claims 65-74 are rejected under same rational as claims 43-52 respectively as described above.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. Applicant is required under 37 CFR 1.111(c) to consider references fully when responding to this action.

The following are pertinent to current invention, though not relied upon:

Bennett et al. (U.S. Patent No. 7,110,969) teach methods of and systems for electronic order routing (CORS).

Bundy et al. (U.S. Patent No. 7,242,669) teach methods and systems for multi-path routing of electronic orders for securities.

Buckwalter (U.S. Pub No. 2003/0177082) teaches method and apparatus for processing and routing transactions.

Buckwalter et al. (U.S. Pub no. 2003/0177085) teach method and apparatus for monitoring and evaluating trade activity.

Hausman (U.S. Pub No. 2002/0178104) teaches price change of orders from reserve in an electronic trading system.

Keith (U.S. Pub No. 2001/00420240) teaches routing control for orders eligible for multiple markets.

Korhammer et al. (2004/0143538) teach automated system for routing orders for financial instruments based upon undisclosed liquidity.

Korhammer et al. (U.S. Pub No. 6,278,982) teach securities trading system for consolidation of trading on multiple ECNs and electronic exchange.

Marynowski et al. (U.S. Pub No. 2007/0156574) teach automated trading system in an electronic trading exchange.

Ordish et al. (Patent No. 5,727,165) teach offer matching system having timed matched acknowledgement.

Scheinberg et al. (U.S. Pub No. 2008/0319891) teach clearing system for an electronic-based market.

Shapiro (U.S. Pub No. 2002/0091606) teaches predictive automated routing system (PARS) for securities trading.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571)270-1374. The examiner can normally be reached on 7:00AM-4:30 PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571)272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bijendra K. Shrestha/
Examiner, Art Unit 3691
12/17/2010

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